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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Joey Deshaun Clark, ) No. CV 11-620-TUC-FRZ (HCE)  
10 Petitioner, ) **ORDER**  
11 vs. )  
12 Craig Apker, )  
13 Respondent. )  
14

15 Before the Court for consideration is Petitioner Joey Deshaun Clark's Amended  
16 Petition under 28 U.S.C. §2241 for a Writ of Habeas Corpus by a Person in Federal Custody  
17 and the Report and Recommendation of Magistrate Judge Hector C. Estrada, recommending  
18 the District Court, following its independent review of the record, deny and dismiss  
19 Petitioner's Amended Petition.

20 Pursuant to Rules 72.1 and 72.2 of the Local Rules, Rules of Practice of the United  
21 States District Court for the District of Arizona, this matter was referred to Magistrate Judge  
22 Estrada for further proceedings and report and recommendation.

23 Petitioner, presently incarcerated at the United States Penitentiary in Tucson, Arizona,  
24 claims that the Bureau of Prisons (hereinafter "BOP") has not properly given him credit on  
25 his sentence for the time he was incarcerated prior to imposition of his federal sentence.

26 The Report and Recommendation sets forth the factual and procedural history of  
27 Petitioner's state and federal criminal proceedings in the state of Nevada at issue and  
28 provides a thorough analysis of the claims and legal standards at issue.

1           Petitioner filed Objections to the Report and Recommendation (Doc. 35) challenging  
2 the findings and recommendation set forth therein.

3           Petitioner also filed four separate requests for the Court's consideration. (Docs. 33,  
4 34, 36 and 37).

5           The Court finds, after consideration of the matters presented and an independent  
6 review of the record herein, including Petitioner's detailed Objection to the Report and  
7 Recommendation and separate requests for the Court's consideration, that there is no basis  
8 upon which to grant the relief requested.

9           Accordingly, the Court shall adopt the Report and Recommendation and the Amended  
10 Petition shall be denied and this action shall be dismissed in accordance with the  
11 recommendations set forth therein.

12           In the event Petitioner appeals this decision, the Court declines to issue a certificate  
13 of appealability ("COA"). A court "must resolve doubts about the propriety of a COA in the  
14 petitioner's favor." *Jennings v. Woodford*, 290 F.3d 1006, 1010 (9<sup>th</sup> Cir. 2002)(citing  
15 *Lambright v. Stewart*, 220 F.3d 1022, 1025 (9<sup>th</sup> Cir. 2000) (en banc). The Court "may issue  
16 a COA for any issue with respect to which petitioner makes a "substantial showing of the  
17 denial of a constitutional right." *Id.*; 28 U.S.C. § 2253(c)(2). This showing can be established  
18 by demonstrating that the issues are "adequate to deserve encouragement to proceed further."  
19 *Slack v. McDaniel*, 529 U.S. 473, 484, S.Ct. (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880,  
20 893 n.4, S.Ct. (1983)).

21           The Court finds that the issues presented do not advance the requisite showing for a  
22 COA to issue. Accordingly,

23           IT IS ORDERED that the Report and Recommendation (Doc. 32) is hereby  
24 ACCEPTED AND ADOPTED as the findings of fact and conclusions of law by this Court;

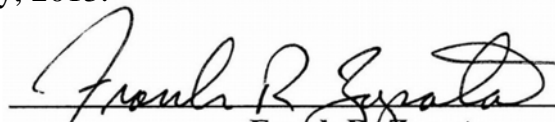
25           IT IS FURTHER ORDERED that the Amended Petition under 28 U.S.C. §2241 for  
26 a Writ of Habeas Corpus by a Person in Federal Custody (Doc. 13) is DENIED and this  
27 action is hereby DISMISSED;

28           IT IS FURTHER ORDERED that a Certificate of Appealability shall not issue;

1 IT IS FURTHER ORDERED that all other pending matters (Docs. 33 and 34) are  
2 denied as moot;

3 IT IS FURTHER ORDERED that judgment be entered accordingly.

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5 DATED this 21<sup>st</sup> day of February, 2013.

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7 **Frank R. Zapata**  
8 **Senior United States District Judge**  
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